

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-223

April 30, 2002

PUBLIC UTILITIES COMMISSION  
Maine Telecommunications Education  
Access Fund

ORDER

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WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. INTRODUCTION**

In this Order we approve the MTEAF Advisory Board's recommendations to the Commission, pursuant to Chapter 285, § 5(B), concerning the operation of the Maine Telecommunications Education Access Fund (MTEAF) from July 2002 – June 2003. The operation of the MTEAF will remain consistent with the fund's current functions, other than specific changes and additions enumerated below.

**II. APPROVAL OF MTEAF PROGRAM ELEMENTS FOR 2002 – 2003**

Title 35-A M.R.S.A. § 7104-B(4) provides that MTEAF funds must be used for the following: telecommunications services; Internet access; internal connections; computers; training; and content. Chapter 285, § 5(B) of our Rules requires the MTEAF Advisory Board to recommend to us annually the services that should be funded for the upcoming year, the funding level, and the overall amount to be assessed carriers. Based on the recommendation of the Board, we approve the following program elements for operating the MTEAF from July 1, 2002 – June 30, 2003.

A. Assessments by Carriers

Title 35-A M.R.S.A. § 7104-B(3)(A) requires the Commission to annually establish an amount of up to .5% of retail charges, to be collected by intrastate carriers for the MTEAF. Chapter 285, § 2(B) requires the Commission, in establishing the amount to be collected, to consider the needs of schools and libraries, the amount collected in the previous year and the impact on ratepayers, particularly when integrated with any State Universal Service Fund.

Last year the Advisory Board recommended that the maximum rate of .5% be collected from July 1, 2001 – June 30, 2002. We projected that this would produce funds sufficient to support continued connections to the Internet for all of Maine's schools and libraries assuming the Federal E-Rate pays for approximately 60% of the

cost.<sup>1</sup> While the funds for the first year have not yet been completely collected, the fund administrator has forecasted MTEAF assessments for FY 01-02 to be \$2,801,462, plus interest (July 1, 2001 to June 30, 2002). Twenty-five percent of the fund is to be used for technologically innovative programs.

The Board projects that it will cost between \$2.6 and \$3.2 in assessment funds to operate the school and library network as it currently exists (See Attachment 1) during 2002-2003. Therefore, the .5% assessment will continue to be necessary. The Board does not recommend using any of the excess funds transferred by Verizon to the MTEAF, as some of these funds are already committed to the Maine Learning Technology Endowment (MLTE) project and the Fogler Library digital library project. Also, contingencies may arise that will need funding from this source. These include a failure to receive the full funding requested from Federal E-Rate or delay in Federal E-Rate funding, necessitating using state funds until federal funds are received. We agree with the Board that we should continue the collection amount at .5%. This amount does not unreasonably burden ratepayers. At this time, we have not established any other State universal service fund assessments. If we do so, we will examine the impact of that assessment together with the MTEAF assessment as required by statute (35-A MRSA §7104-B(3)(C)).

B. Support for POTS for Libraries

Under the previous MSLN, libraries were eligible for up to two POTS ("plain old telephone service") lines at a charge of \$12 per month per line, rather than the typical business rate of about \$31 to \$36 per month, per line. Libraries and schools are now eligible to receive Federal E-Rate discounts for POTS, and the State Library has coordinated a blanket application for schools and libraries. Last year the Board recommended that the MTEAF continue to provide additional financial support of \$100 annually, per line for up to two lines as a transition to receiving Federal E-Rate for these services. The Board now recommends that the payment for the \$12 lines not continue as the libraries are receiving discounts through the Federal E-Rate. It is also impractical (and costly) for the Fund Administrator to issue numerous individual checks. We adopt this recommendation.

C. Support for Additional Libraries

In the original MSLN order, the Commission decided that county law libraries and libraries in publicly funded institutions of higher learning were eligible to participate in the program (approximately 37 sites). Subsequently, the Commission decided that some additional libraries would be eligible if they met certain requirements as certified by the State Librarian. These requirements included being open to the

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<sup>1</sup> The Maine State Library submitted a consortium application for all of Maine's schools and libraries in February 2001 (and again in February 2002). The State Library was notified on March 20, 2002 that its 2001 application was still under review. On April 12, the Library was informed that the application was going through the final auditing process.

public, participating in interlibrary loans, being non-profit in nature, and being open and staffed more than 20 hours per week. Order, Docket No. 96-900 (Nov. 7, 1996). This category included hospital libraries and private college libraries. Approximately 21 libraries qualified under this category. In March 1992, we adopted the recommendation of the Advisory Board that eligibility be extended to for-profit colleges if they met the criteria. This added five more sites. At least 30 of these libraries do not meet the criteria for eligibility under Federal E-Rate.

Title 35-A M.R.S.A. § 7104-B(1)(A) defines qualified libraries as libraries meeting the definitions of 27 M.R.S.A. § 110(10) or (12)<sup>2</sup> or “a library that provides free public access to all advanced telecommunications services available at that library and whose collection serves as a statewide resource, if the commission determines, in consultation with the Maine Library Commission, that including that library as a qualified library is in the public interest.” In our order last year we asked the Library Commission to certify to us any libraries that met the criteria we had set out previously for additional libraries. Last year the Maine Library Commission certified that 68 (30 of which do not qualify for Federal E-Rate) additional libraries met the criteria. We will continue to allow these libraries to participate in the program. We expect the Library Commission to inform us of any library that no longer meets the criteria. We also ask the Board to inform us in next year’s recommendation of the precise number of such libraries participating and of the cost to the MTEAF.

D. Support for Multiple Sites Connected Through ATM

The MTEAF currently provides \$358 per month toward the \$2,075 per month cost of ATM for high schools that are connected to the Internet through their ATM connection. There are a number of elementary and middle schools that have been wired to nearby high schools and are receiving their Internet service through the high school’s ATM connection. Such connections benefit the sites by providing greater speeds and are actually more efficient from a network perspective. We agree with the Board’s recommendation that those sites continue to receive MTEAF at the financial level for the connection for which they would otherwise be eligible (56 or T1), up to an amount not to exceed the monthly cost of the ATM connection, when all the sites’ credits are taken together.

E. Innovative and Technologically Advanced Program

Title 35-A M.R.S.A. § 7104-B(5) requires that “[a] minimum of 25% of each annual program budget must be devoted to targeted projects that are innovative and technologically advanced (ITA).” As explained above in II(A), if the Commission approves funding at the .5% of retail revenue level, approximately \$700,000 must be set aside for this use. The Board recommends that the MTEAF funding supporting sites using ATM be considered as “technologically advanced.” Based on an extensive selection process that included reviewing 37 pre-proposals and seven final proposals, the Board recommends that three proposals be funded. The three are: MSAD #4, \$300,000; MSAD #59, \$81,858; Maine State Library, \$120,000. See Attachment 2 for a

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<sup>2</sup> These sections define “public library” and “research center.”

summary of the proposals. The total requested and approved by the Board is \$501,858, slightly more than originally proposed and above the amount allotted to the ITA program. The ITA grant review committee recommended to the Board, and the latter agreed, that \$501,858 would be funded this year. Subsequent ITA fund levels will have to reflect the actual 25% share of the MTEAF assessment. We also direct the Advisory Board to consider whether the MLTE project (laptops for seventh and eighth grade students) overlaps with the purpose and definition of ITA funding requirements.<sup>3</sup> We agree with the Board that the MTEAF should fund the three proposals above.

F. Circuit Riders

The MSLN currently supports three “circuit riders (CRs)” who are available by phone, e-mail, and onsite visits to assist schools and libraries. Feedback on this program has been extremely positive, especially for small schools and libraries. The CRs provide technical support for all the MSLN sites, with more of the onsite visits going to libraries. The Board believes that there continues to be a need for personal technical support for the MSLN sites and that the need not only evolves as the technology changes but also persists because of personnel changes, especially at small libraries, requiring ongoing attention from the CRs. The Maine Learning Technology Endowment (MLTE) program is not expected to affect the CR workload. Northern Maine Technical College administers this program and has proposed its continuation at a cost of \$229,950 annually, the same amount funded last year. We agree with the Board that the MTEAF should continue to fund this service, at least for one more year.

G. Maintenance of FRADS

Currently 507 sites have 56 kbps connections using a FRAD (Frame Relay Access Device). Some of these FRADS are wearing out after 6+ years of use. The FRADS are no longer manufactured and it is not cost-effective to repair them. Verizon proposes to replace inoperable FRADS with routers. Verizon projects that up to 75 FRADS will need to be replaced next year. Verizon technicians will replace the FRADS and the University of Maine will work with Verizon to configure the routers. The total cost to MSLN for 75 routers, including maintenance, will be \$121,875. We agree with the Board’s recommendation and approve this spending and allow Verizon to purchase the routers as needed.

H. Raymond H. Fogler Library at the University of Maine – Digital Library

The 120<sup>th</sup> Maine State Legislature passed a bill that provides funds to create a digital library to meet the educational, research, business, and economic needs of Maine (P.L. 2001, ch. 522 §5). The Commission is directed to transfer \$500,000 to the University of Maine twice, by June 30, 2002, and by June 30, 2003, upon application

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<sup>3</sup> We note that the MSAD #4 proposal funds a program that will provide laptop computers at the high school level, used in a wireless networking environment, as well as at home.

by the Board of Trustees of the University of Maine System.<sup>4</sup> We direct the MTEAF Board Chair to transfer the funds upon such request.

I. Maine Learning Technology Endowment

On September 14, 2001, in this docket, we agreed to provide funds from the MTEAF to support certain network functions necessary for the Maine Learning Technology Endowment (MLTE) (laptop project) and to support certain other functions for the MLTE. The MTEAF will provide payments totaling no more than \$9 million over a four-year period beginning in August of 2002. Support will be capped at \$2,250,000 per year. We continue to reserve the right to approve any specific planned expenditures.

J. E-mail Accounts for Students and Library Patrons

In the Order in Docket Number 96-900, April 2, 1996, we approved the implementation plan recommended by the Board. The plan specifically stated that the MSLN e-mail accounts would be limited to faculty and staff. In its September 2000 response to the RFP for the provision of Internet service to the MSLN, the University of Maine System Network for Education and Technology Services (UNET) proposed to provide e-mail addresses and service to all the state's teachers, students, library staff, and patrons at no additional charge. UNET has represented that it does not expect such accounts to impact the level of bandwidth it currently provides. We accept UNET's offer and rescind our previous e-mail service limitation.

K. Internet Filtering

The Children's Internet Protection Act (CIPA) and the Neighborhood Internet Protection Act (NCIPA) went into effect on April 20, 2001. These new Federal laws place restrictions on the use of funding that is available from various Federal programs, including E-Rate. These restrictions take the form of requirements for Internet safety policies and technology which block or filter certain material from being accessed through the Internet. Our statute and Chapter 285 require that qualified schools and libraries apply for Federal E-Rate discounts in order to receive MTEAF funding. Currently, the American Library Association, along with other entities, is challenging the legality of these statutes in Federal court and seeking a stay of their implementation. The Board recommends that while CIPA is under appeal, we should assume that the requirements will continue to be in effect, requiring filtering by schools and libraries beginning July 1, 2002. The Board has asked UNET to recommend a filtering product that could be effective for the entire network. Filtering technology is

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<sup>4</sup> **Transfer.** Upon application from the Board of Trustees of the University of Maine System to the Public Utilities Commission, the commission shall order the National Exchange Carrier Association to transfer \$500,000 from the unexpended balance of the telecommunications education access fund no later than June 30, 2002 and \$500,000 no later than June 30, 2003 to the University of Maine System which must use the funds to provide for the infrastructure needs to create a digital library that is accessible statewide. P.L. 2001, ch.522, §4.

much more efficient and has less negative impact on the network if provided at the enterprise level (by UNET). While we do not endorse the requirements of CIPA, we believe the recommendation by the Board allows local control and more cost effective pricing. We agree that UNET should recommend as soon as possible such a product and the MTEAF will fund any filtering solution, at least for the 2002-2003 MTEAF period. We ask the Board to report to the Commission on any filtering plans no later than June 15, 2002.

### III. CONCLUSION

As described above, the second year (July 1, 2002, to June 30, 2003) of MTEAF funding will be used to maintain the Internet connections provided by MSLN as well as fund three ITA grants, provide funds for the University of Maine Fogler Library Digital Library, provide funds and support for the MLTE, and fund system-wide internet filtering. We also delegate to the Chair of the Advisory Board the authority to direct the MTEAF fund administrator to make disbursements consistent with this Order.

Dated at Augusta, Maine, this 30<sup>th</sup> day of April 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR: Welch  
Diamond

COMMISSIONER ABSENT: Nugent

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.